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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 140304190-4190-01]

RIN 0648-BE03

Subsistence Taking of Northern Fur Seals on the Pribilof Islands; Summary of Fur Seal Harvests for 2011-2013 and Proposed Annual Harvest Estimates for 2014-2016

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: Pursuant to the regulations governing the subsistence taking of northern fur seals, this document summarizes the annual fur seal subsistence harvests on St. George and St. Paul Islands (the Pribilof Islands) for 2011-2013 and proposes annual estimates of fur seal subsistence harvests for 2014-2016 on the Pribilof Islands, Alaska. NMFS solicits public comments on the proposed estimates.

DATES: Comments must be received no later than [insert date 30 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by FDMS docket Number

NOAA-NMFS-2011-0187, by either of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2011-0187, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Jon Kurland, Assistant Regional Administrator for Protected Resources, Alaska Region NMFS, Attn: Ellen Sebastian, P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Michael Williams, NMFS Alaska Region, 907-271-5117, Michael.Williams@noaa.gov; or Shannon Bettridge, NMFS Office of Protected Resources, 301-427-8402, Shannon.Bettridge@noaa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Access

An Environmental Impact Statement is available on the Internet at the following address:
<http://alaskafisheries.noaa.gov/protectedresources/seals/fur/eis/final0505.pdf>.

Background

The subsistence harvest from the depleted stock of northern fur seals (*Callorhinus ursinus*), on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 216, subpart F. The purpose of these regulations, published under the authority of the Fur Seal Act (FSA), 16 U.S.C. 1151, *et seq.*, and the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361, *et seq.*, is

to limit the take of fur seals to an allowable harvest level providing for the subsistence needs of the Pribilof residents, while restricting taking by sex, age, and season for herd conservation. To further minimize negative effects on the Pribilof Islands' fur seal population, the harvest has been limited to a 47-day season annually (June 23 to August 8).

Pursuant to the regulations governing the taking of fur seals for subsistence purposes, NMFS must publish a summary of the fur seal harvest for the previous 3-year period and an estimate of the number of seals expected to be taken in the subsequent three-year period to meet the subsistence needs of the Aleut residents of the Pribilof Islands. Beginning in 2000, the allowable take ranges of estimated annual northern fur seal subsistence harvests have been discussed with each tribal government as part of the co-management relationship and agreement. Accurately predicting the annual subsistence needs of the Pribilof communities has faced practical and social difficulties; however, the process to develop estimates of the number of fur seals required to meet subsistence needs has resulted in acceptance of the different allowable take ranges since those first established in 1986. The current upper harvest take limit of 2,500 sub-adult (juveniles, 2-4 years old) male fur seals has been accepted every year since 1997. The lower harvest take limit of 1,945 provides a degree of flexibility the communities feel comfortable with regarding changes and unanticipated needs within the community and the environment.

Several factors and conditions affect both the subsistence harvest of northern fur seals and the number of fur seals required to meet subsistence needs. Weather conditions and availability of animals varies annually. The availability of wage earning jobs reduces the time available for community members to harvest fur seals and hunt other subsistence resources. Thus, individual community members may be unavailable to harvest fur seals during the season in certain years or have more financial resources to hunt other marine mammals in subsequent years or seasons.

Several specific seasonal employment opportunities may interfere with community members' ability to harvest fur seals under the current regulations. The current timing of the northern fur seal subsistence harvest season overlaps with the local halibut fishing season, and many of the community members who participate in the harvest are also fishermen. In addition, crab fishery rationalization and a renewal of the crab harvest in the Pribilof region has provided local job opportunities that may extend into the spring hunting season for Steller sea lions. Both Steller sea lions and northern fur seals combine to meet the subsistence needs of the local communities along with numerous other species, though one species does not replace the lack of another. Northern fur seals provide the more reliable resource of the two species, despite being available during a 6-week harvest season.

The communities of St. Paul and St. George Islands rely on marine mammals as a major food source and a cornerstone of their culture. The harvest of sub-adult male northern fur seals has occurred for well over 200 years and the biological implications of this harvest are reasonably well understood. Subsistence harvests under the current regulations are very small compared to the commercial harvests that occurred during the 20th Century.

Summary of Harvest Operations and Monitoring from 2011 to 2013

The annual harvests from 2011 to 2013 were conducted in the established manner and employed the standard methods required under regulations at 50 CFR 216.72. NMFS personnel, a contract veterinarian, and tribal government staff monitored the harvest and communicated to further improve the efficiency of the annual harvest and full utilization of the animals taken. NMFS received annual northern fur seal harvest reports from the tribal governments of both islands.

The reported male northern fur seal subsistence harvests for St. Paul was 322 animals in

2011, 383 in 2012, and 298 in 2013, (Lestenkof et al. 2011, Lestenkof et al. 2012, Lestenkof et al. 2014), and for St. George was 120 animals in 2011, 63 in 2012, and 80 in 2013 (Mercurief 2011, Lekanof 2012, Kasheverof 2013). The number of male northern fur seals harvested on St. Paul Island from 1986 to 2013 ranged from 269 to 1704, and the number harvested on St. George Island from 1986 to 2013 ranged from 78 to 319. The average number of male seals harvested during the past ten years on St. Paul and St. George Islands has been 365 seals (range: 269 to 493) and 130 seals (range: 63 to 212), respectively (Table 1).

The northern fur seal is designated as depleted under the Marine Mammal Protection Act. The annual upper harvest take level is 2,500 sub-adult male fur seals to satisfy the subsistence requirements for both St. Paul and St. George. The current abundance estimate is 611,617 fur seals, and the potential biological removal (PBR) level in the 2012 stock assessment was 11,130 animals. The harvest is regulated to select sub-adult male fur seals and the proposed 2014-2016 harvest levels would have no more than a negligible impact on the stock. The upper limit of the harvest is 22.5% of the PBR. Because the calculation of PBR assumes random mortality at all ages and both sexes, the effects of only sub-adult male subsistence harvest on the stock would be less than if the harvest of fur seals included females and males of all ages. Fewer than 10% of all adult males contribute to reproduction, such that there are excess males in the northern fur seal population at all ages, and the excess of males has been the basis of the sustainable male harvests for over 100 years. Moreover, the upper harvest take level is significantly lower than the PBR level, and the actual harvest has not reached the lower take level of 1,945 in the past decade. The mortality from the subsistence harvest is in addition to other sources of known human-caused mortality, which are described in the annual stock assessment report, and include such things as bycatch in commercial fisheries, entanglement in derelict fishing gear, illegal shooting, and

accidental death during research. The estimates of all sources of known human-caused mortality, including subsistence harvest takes, do not reach or approach PBR.

The accidental harvest of young female fur seals has occurred intermittently during the male harvest. Thirty-six females on St. Paul and five females on St. George have been killed accidentally since 1987. The average accidental killing of females on St. Paul and St. George Islands during the last 10 years is two and less than one, respectively.

Under section 119 of the Marine Mammal Protection Act, NMFS signed agreements with St. Paul in 2000 and with St. George in 2001 for the cooperative management of subsistence uses of northern fur seals and Steller sea lions. The processes defined in the cooperative agreements have facilitated a collaborative working relationship between NMFS and tribal authorities. This has led to more coordinated efforts by the tribal governments of both islands to promote full utilization of inedible seal parts for traditional arts, crafts, and other uses permitted under regulations at 50 CFR 216.73. The result has been an expanded use of these materials by the Aleut residents.

TABLE 1. SUBSISTENCE HARVEST LEVELS OF SUB-ADULT MALE NORTHERN FUR SEALS ON THE PRIBILOF ISLANDS, 1986-2013

Year	Estimated Take Range		Actual Harvest	
	St. Paul	St. George	St. Paul	St. George
1986	2,400-8,000	800-1,800	1,299	124
1987	1,600-2,400	533-1,800	1,704	92
1988	1,800-2,200	600-740	1,145	113
1989	1,600-1,800	533-600	1,340	181
1990	1,145-1,800	181-500	1,077	164
1991	1,145-1,800	181-500	1,644	281
1992	1,645-2,000	281-500	1,480	194
1993	1,645-2,000	281-500	1,518	319
1994	1,645-2,000	281-500	1,615	161
1995	1,645-2,000	281-500	1,263	259
1996	1,645-2,000	281-500	1,588	232
1997	1,645-2,000	300-500	1,153	227
1998	1,645-2,000	300-500	1,297	256
1999	1,645-2,000	300-500	1,000	193
2000	1,645-2,000	300-500	754	121
2001	1,645-2,000	300-500	595	184
2002	1,645-2,000	300-500	646	202
2003	1,645-2,000	300-500	522	132
2004	1,645-2,000	300-500	493	123
2005	1,645-2,000	300-500	466	139
2006	1,645-2,000	300-500	396	212
2007	1,645-2,000	300-500	269	206
2008	1,645-2,000	300-500	328	170
2009	1,645-2,000	300-500	341	113
2010	1,645-2,000	300-500	357	78
2011	1,645-2,000	300-500	322	120
2012	1,645-2,000	300-500	383	63
2013	1,645-2,000	300-500	298	80

Estimate of Subsistence Need for 2014 through 2016

The projected subsistence harvest estimates are an allowable take range, the lower end of which may be exceeded if NMFS is given notice and the NOAA Assistant Administrator for Fisheries determines that the annual subsistence needs of the Pribilof Islands Aleuts have not been

satisfied. Conversely, the harvest can be terminated before the lower end of the range is reached if the annual subsistence needs of the Pribilof Islands residents are determined to have been met or the harvest has been conducted in a wasteful manner.

For the 3-year period from 2014 through 2016, NMFS proposes no change to the previous allowable take ranges of 1,645-2,000 sub-adult male fur seals for St. Paul Island and 300-500 sub-adult male fur seals for St. George Island. Retaining these allowable harvest levels will provide adequate flexibility and enable adaptive management of the subsistence harvest through the co-management process within the regulations. NMFS seeks public comments on these proposed estimates.

As described above, if the Aleut residents of either island reach the lower end of this annual harvest estimate and have unmet subsistence needs and no indication of waste, they may request an additional number of seals to be harvested prior to August 8 (the end of the designated harvest season) up to the upper limit of the respective harvest take level. The residents of St. George and St. Paul Islands may substantiate any additional need for seals by submitting in writing the information upon which they base their decision that subsistence needs are unfulfilled. The regulations at 50 CFR 216.72(e)(1) and (3) require a suspension of the fur seal harvest for up to 48 hours once the lower end of the estimated harvest level is reached, followed either by a finding that the subsistence needs have been met or by a revised estimate of the number of seals necessary to satisfy the Aleuts' subsistence needs.

The harvest of fur seals between 2014-2016 is anticipated to be non-wasteful and in compliance with the regulations specified at 50 CFR 216.72 which detail the restrictions and harvest methods. NMFS will continue to monitor the harvest on St. Paul Island and St. George Islands during 2014, 2015, and 2016.

Classification

National Environmental Policy Act

NMFS prepared an Environmental Impact Statement (EIS) evaluating the impacts on the human environment of the subsistence harvest of northern fur seals, which is available on the NMFS website (see Electronic Access). A draft EIS was available for public review (69 FR 53915, September 3, 2004), and NMFS incorporated the comments into the final EIS (May 2005).

Executive Order 12866 and Regulatory Flexibility Act

This proposed action is exempt from the procedures of E.O. 12866 because the action contains no implementing regulations.

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed action would not have a significant economic impact on a substantial number of small entities. The harvest of northern fur seals on the Pribilof Islands, Alaska, is for subsistence purposes only. This action directly regulates the subsistence harvest of northern fur seals by Alaska Natives in the communities of St. Paul and St. George. The estimates of subsistence need are derived based on historic harvest levels and direct consultation with the Tribal Governments from each community. NMFS has identified two small entities that may be directly regulated by this action—the communities of St. Paul and St. George, both of which have populations below 500 people, and therefore are small governmental jurisdictions under the Regulatory Flexibility Act, 5 USC 601(5).

Estimate of economic impacts on small entities

This action would have no adverse economic impact on the affected entities, but may provide them with a net benefit. The estimated allowable take ranges of the subsistence harvests

are unlikely to restrict the number of animals taken by subsistence hunters. NMFS compared historic harvest levels on each island to the upper and lower ends of the allowable take range of the estimated subsistence harvest. The total annual harvests on each island has never exceeded the upper end of the proposed allowable take ranges, and has only exceeded the lower end of the proposed ranges, in 1991 on both islands, and in 1993 on St. George. The regulated entities will not experience any change from the status quo since the proposed allowable take ranges are the same ranges that have been used since 1997.

The subsistence harvest of fur seals provides a local, affordable source of fresh and frozen meat for the communities' consumption. Fresh meat from alternative (e.g., commercial) sources is unavailable on either St. Paul or St. George. Subsistence hunting and fishing are the primary means by which the communities meet their dietary need. No other fish and wildlife species are predictably available to replace fresh fur seal meat. Replacement of the frozen fur seal meat with livestock meat that is shipped to the islands is extremely expensive and only available when air or barge service can access the communities, which can be highly uncertain. In addition, marine mammals such as fur seals are the preferred meat resource for Aleuts and other coastal Alaska Natives.

Explanation of the criteria used to evaluate whether the action would impose “significant economic impacts”

Both affected entities are small governmental jurisdictions, and thus the action will not have a disparate impact on small versus large entities.

The criteria recommended to determine the significance of the economic impacts of the action are profitability and disproportionality. The guidance states that “the concept of profitability may not be appropriate for a non-profit small organization or a small government jurisdiction.”

Based on this guidance NMFS believes disproportionality is the appropriate standard given the regulated entities are small government jurisdictions. No large entities are allowed to harvest northern fur seals; therefore the regulatory allowance for the small entities on St. Paul and St. George to harvest northern fur seals does not create a disproportionate impact that would disadvantage them.

Explanation of the criteria used to evaluate whether the action would impose impacts on a “substantial number” of small entities

This action will have beneficial economic impacts on the directly regulated Alaska Native residents of St. Paul and St. George, and will not have a significant economic impact on a substantial number of small entities, or indeed any small entities. Therefore, a regulatory flexibility analysis is not required and none was prepared.

Paperwork Reduction Act

This proposed action does not require the collection of information.

Executive Order 13132–Federalism

This proposed action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 13132 because this action does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Nonetheless, NMFS worked closely with local governments in the Pribilof Islands, and these estimates of subsistence harvests were prepared by the local governments in St. Paul and St. George, with assistance from NMFS officials.

Executive Order 13175–Native Consultation

Executive Order 13175 of November 6, 2000 (25 U.S.C. 450 Note), the Presidential Memorandum of April 29, 1994 (25 U.S.C. 450 note), the American Indian Native Policy of the U.S. Department of Commerce (March 30, 1995), the Department of Commerce's Tribal Consultation Policy (including the Department of Commerce Administrative Order 218-8, April 26, 2012), and the NOAA Procedures for Government-to-Government Consultation With Federally Recognized Indian Tribes and Alaska Native Corporations (November 12, 2013) outline the responsibilities of NMFS in matters affecting tribal interests. Section 161 of Public Law 108-100 (188 Stat. 452) as amended by section 518 of Public Law 108-447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. NMFS has contacted the tribal governments of St. Paul and St. George Islands and their respective local Native corporations (Tanadgusix and Tanaq) about setting the next three years harvest estimates and received their input.

Dated: May 8, 2014.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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